

REMARKS

The election/restriction requirement has been carefully reviewed. Restriction to one of the following inventions was required under 35 U.S.C. 121 between: group I, claims 1-12 and 17-27, drawn to a process of preparing a solid composite and a solid composite, classified in class 516, subclass 98; and, group II, claims 13-16, drawn to an alcohol soluble nanocrystal-polymer complex colloid, classified in class 516, subclass 33. The Office Action stated that the inventions are distinct, each from the other because of the following reasons: inventions II and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the alcohol soluble colloid could be used to produce solid nanocrystal-polymer complex particles for use without the sol-gel matrix.

The Office Action concluded that because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated was proper.

In addition, the Office Action stated that should applicant elect to proceed with the claim of Group I, claims 4 and 25 are generic to a plurality of disclosed patentably distinct species comprising the sol-gel precursor material and claims 5 and 21 are generic to a plurality of disclosed patentably distinct species comprising the colloidal nanocrystal. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for each, even though this requirement is traversed.

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In Response to Office Action dated November 10, 2005

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Applicants hereby elect Group I, claims 1-12 and 17-27 without traverse. Further, applicants elect the species of titania as the sol-gel precursor material and elect lead selenide (PbSe) as the colloidal nanocrystal.

A favorable action is solicited.

Respectfully submitted,

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Bruce H Cottrell
Signature of Attorney

Reg. No. 30,620
Phone (505) 667-9168

Bruce H. Cottrell
Los Alamos National Laboratory
LC/IP, MS A187
Los Alamos, New Mexico 87545